THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.11984 of 1997

Dated:29.3.2007

Between

1.R.Viswanadha Reddy and others.

.....Petitioner

and

1.Union of India, rep., by its
Under Secretary, Department of Heavy
Industry, Bhari Udyog New Delhi
and others.

...Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.11984 of 1997

ORDER:

This writ petition is filed seeking a Mandamus to direct the respondents to pay the arrears due to the petitioners arising out of the revised scales of pay with effect from 1.1.1992 to 31.12.1996 in view of the 1st respondent's proceedings in Ref.No.1 (18) 95-PE II dated 8.1.1997.

It is the case of the petitioners that they are employees of M/s.Hindustan Cables Limited, Hyderabad Unit, Hyderabad and worked in various capacities such as Deputy General Managers, Managers and Deputy Managers in various sections. While they were working in the above posts, except the

6th petitioner all others have opted for voluntary retirement under a scheme introduced by the 2nd respondent company in order to reduce the excess manpower. Accordingly, the 2nd respondent-company allowed them to retire from service voluntarily. The 6th petitioner has resigned his job and he was relieved from the service on 21.6.1996. While so, the 1st respondent issued proceedings dated 8.1.1997 informing the 2nd respondent that the Government of India has approved for revision of pay scales of non-unionized supervisors and Executives of M/s.Hindustan Cables Limited and other related allowances and benefits. Some guidelines were issued in revising the scales of pay. Clause 6 of the said proceedings states that all executives, who were on the rolls of the company as on 1.1.1992 but subsequently ceased to be in service on account of superannuation, resignation, voluntary

retirement, termination of employment, death etc., would be eligible for the benefits of the revised scales of pay up to the period they were in employment of the company. Since the petitioners were in service as on 1.1.1992, they are entitled for all the benefits arising out of the revision of pay scales i.e., till the date of their voluntary retirement or resignation including the arrears. Further Clause 19 of the said proceedings states that the revised scales of pay spelt out in Para 1 of the note would hold good for a period of five years w.e.f. 1.1.1992. In view of the said clause, they are entitled for the benefits of the revised pay scales with effect from 1.1.1992 to 31.12.1996 including the arrears arising out of revised scales of pay. The 1st respondent also directed the 2nd respondent to implement the revised scales of pay. In view of the said proceedings dated 8.1.1997, the 2nd respondent issued an office order on 11.1.1997 revising the scales of pay and

implemented the same by giving the scales of pay with effect from 1.1.1997 but the arrears for the past period i.e., from 1.1.1992 were not paid. It is further stated that the 3rd respondent company has paid an amount of Rs.35,000/- to Rs.45,000/- during 1995 and 1996 to the petitioners towards arrears payable in the form of Advance. The 3rd respondent has not recovered the amounts which were paid as Advance from the retirement benefits at the time of their voluntary retirement. Therefore, it is clear that the amounts which were paid as stated above cannot be treated as advance payments but can be treated as the amounts due to them. The 3rd respondent used the words 'Advance' amounts only to avoid the payment of arrears with effect from 1.1.1992 to the persons who were not in service but nothing else. There is no procedure or practice anywhere in any company for payment of salaries or arrears of salaries as

advance amount.

Separate counter-affidavits have been filed by the respondents. It is asserted that the terminal benefits of the petitioners were paid to them in the revised scales of pay. The present claim of the petitioners that they are entitled to payment of arrears of salary of the revised scales of pay, is totally misconceived. The contention of the petitioners that the officers who are continuing in service are allowed substantial amounts as advance which in fact represents the arrears of salary consequent to the revised scales of pay is again misconceived. In order to motivate the officers to work hard for increasing the production, the Hyderabad unit took a decision for paying recoverable advance to the officers who were on rolls of the company. The contention of the petitioners that the recoverable advance amount paid on previous occasions was not recovered when they were paid terminal benefits and therefore, such

amount should be taken as part payment of the arrears of salary consequent to the revised scales of pay is again misconceived. The advance paid as referred to by the above petitioners were recoverable in nature and recovery has already been made in respect of many officers who have left the company on voluntary retirement or resignation. It is further asserted that the recoverable advance was disbursed to the officers, who are continuing in service, as an incentive to promote higher production since such incentives are admissible only to the officers, who are in service. The petitioners, who ceased to be officers consequent to their voluntary retirement/resignation, cannot claim the service benefits which are extended to the officers, who were in service, especially, when the reason for granting such benefit is based on higher production. It is also stated that none of the officers in any of the units of the company have been paid the arrears of salary

consequent to the revised scales of pay till date. As and when the financial position of the company improves, the officers including those who have left the service of the company on different grounds will be paid the arrears on account of salary revision. The petitioners also will be entitled to arrears as and when the financial position of the company improves and the arrears are payable. Till the officers of the company are paid the arrears of wages consequent to the revised scales of pay as stated above, the petitioners cannot claim the said benefit or complain that they are subjected to a discriminatory treatment. Thus, absolutely there are no merits in the writ petition and the same is liable to be dismissed.

Heard the learned counsel on either side.

From the above, it is clear that the petitioners are not entitled for any arrears of salary and the amounts paid as advance on previous occasions were not recovered when

they were paid the terminal benefits and therefore, the plea of the petitioners that the said amounts should be taken as payment of arrears of salary consequent to the revision of pay scales is misconceived. Non-recovery of the advances from the officers, who were leaving the company on voluntary retirement or resignation, was done as a good gesture on the part of the company. The petitioners cannot claim arrears of salary consequent to the implementation of revised scales of pay merely on the reason that the company has not recovered advances paid to them while computing their terminal benefits. The petitioners, who are ceased to be officers consequent to their voluntary retirement/resignation, cannot claim the service benefits which are extended to the in-service officers. What was paid to the petitioners is only a recoverable advance and it is only to motivate the officers not to leave the company and promote the production and

the advance so paid to the subsisting officers is capable of being recovered. The payment of advance was based on the reason of granting an incentive for higher production. The petitioners cannot compare themselves with the officers who are continuing in service only for the purpose of grant of recoverable advances, which were granted as a measure to promote the production. Writ petition is devoid of merits and is liable to be dismissed.

Accordingly, writ petition is dismissed. No costs.

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29-03-2007

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